FACSIMILE TRANSMITTAL

Cinergy Corp
Environmental Services
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Plainfield, IN 46168

Date: 10-31-00

CINERGY.

To: Janet McCabe

From: Dan Weiss

Company: DOEM-AIR

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☒ Urgent

☐ Reply ASAP

☐ For Your Information

☐ Please Comment

Copies To:

Description/Remarks:

Cinergy comments on NO_x SIP call rule.

Cinergy Carp.
1000 East Main Street
Plainfield, IN 461681782

CINERGY.
PSI

October 3 1, 2000

Ms. Janet McCabe
Assistant Commissioner
Office of Air Management
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, IN 462066015

Re: Development of Nitrogen Orides Budget Trading Program - 326 IAC 10-4

Dear Ms. McCabe:

Cinergy Corp. appreciates this opportunity to suixnit comments on the proposed Nitrogen Oxides Budget Trading Program, developed in response to the U.S. EPA's NO, SIP call and to be. codified at 326 JAC 104. Cinergy also supports the comments of the Indiana Electric Utility Air Working Group.

Cinergy has several electricity generating units in the eastern third of the Indiana currently are subject to emissions control requirements under the Section 126 rule that was published by EPA on January 18, 2000. The Section 126 rule will be implemented through a Federal NO, budget trading program administered by EPA. It is virtually certain that there will be some differences between the Federal Section 126 program and the program ultimately adopted by IDEM. Possible areas of inconsistency include: actual allowance allocations, length of the allocation period, allowance allocation methdology, approach to inclusion of new sources in the program, methodology for generating early reduction credits, and other aspects of the trading program. Cinergy's units will be placed in an untenable position if they are required to comply with two similar, but not entirely consistent, programs. Accordingly, Cinergy asks IDEM to include provisions in this rule that sources are not subject to 326 IAC 10-4 as long as they are subject to the Section 126 rule. Such an approach will prevent sources from being forced to comply with two inconsistent programs, while at the same time ensuring that those sources do not escape from program coverage altogether.

I. Trading

Timing Of Allowance Allocations. EPA had originally proposed that States would submit initial allowance allocations that would apply for allocation periods of at least five years and potentially as long as ten years. 63 Fed. Reg. 25902, 25929 (May 11, 1998). The final model rule, however, provides that States would modify allowance allocations on an annual basis so long as sources have their allocations established three years prior to the control period in which those allocations would be used. 40 C.F.R. §96.41(b). IDEM has adopted this approach in its proposed rule.

Cinergy therefore recommends allocating allowances for five year periods, to enable sources to purchase sufficient future streams of allowances to ensure compliance. Under EPA's approach, a source's allowance allocation may change from year to year based on, among other factors, changes in utilization and the number of new sources beginning operations, potentially making sources reluctant to rely on the purchase or transfer of allowances to cover their emissions because of uncertainty over how many allowances may be needed or available. This uncertainty instead may cause sources to install non-cost-effective controls, thereby adding to reliability concerns. Simply put., in the absence of any certainty over what future allocations will be, sources may not dare to sell allowances, nor are they likely to know how many allowances to buy.

Issuing allowances for longer periods would increase certainty as to how many allowances sources will be able to obtain. This certainty enables utilities to devise long-term compliance strategies based on the continued availability of allowances over time, increasing the likelihood that sources will adopt market-based compliance strategies rather than simply installing controls. Under the frequent re-allocation approach, in contrast, sources would bc unable to purchase future streams of allowances because no one will know exactly how many allowances they will have to sell. Cincrgy believes that the market uncertainty created by sources being unable to determine how many allowances they will receive in the future may result in the vast majority of sources simply installing non-costeffectivc controls, even if purchasing allowances would be a more cost-effective option. Thus, we are concerned that under EPA's recommended, and IDEM's proposed, approach, a viable market may not develop.

Cinergy also recommends that the state provide sources that operated or were issued construction permits to operate in any ozone control periods between 1995 and 2000 allowances as part of this rulemaking. Those allowances would be allocated from the EGU budget consistent with procedures for other operating EGUs during the same time period.

In addition, Cincrgy recommends that IDEM include provisions in the NOx allowance allocation section of the trading rule that EGU NOx budget sources that permanently retire should be given permanent allocations of their latest NOx allowances. This provides sources an incentive to retire sources with out thc risk of losing their allowance stream at the next reallocation period. This will increase the potential for retiring older and higher polluting sources.

II. Si of the Compliance Supplement Pool – Addressing Reliability Concerns

During the SIP call rulemaking, concerns were raised that sources may have difficulty installing controls by the May 1, 2003 compliance date (now May 3 1, 2004) and that the need for so many electricity generating units to install SCR technology could adversely impact the rcliability of the electric utility supply. To address these concerns EPA created a "compliance supplement pool." 40 C.F.R. § 5 1. 12 1 (e)(3). The compliance supplement pool consists of 200,000 tons for the entire 22 State region, and will be distributed among States in proportion to the size of thc emissions reductions they arc required to achievc under the SIP call. 40 C.F.R. §5 1.121(e)(3)(iii). Indiana will receivc 19,915 compliance supplement pool allowances based on EPA's calculation of how many SCR's will be needed in the State to meet the 0.15 lb/mmBtu limit.

As a result of the NOx SIP Call the state of Indiana and its electric generating units will the second most impactcd state in the nation after Ohio. The SIP Call requires Indiana EGU's to make thc second greatest number of tons reductions and therefore install more controls than almost any other state. As a result of this substantial technology requirement a substantial amount of flexibility is needed in the rules to mitigate any adverse impacts on the utilitics and rate payers in the state. Cinergy therefore

reliability issues, this approach would have a significant environmental benefit and would enhance the viability of the NO, trading program as decribed in the comments of the IEUAWG.

EPA 's Approach Results In Lost Air Quality Benefits. The number of allowances , available for distribution as early reduction credits from EPA's compliance supplement pool is substantially smaller than the number of credits that could be generated by sources installing SCR or other control technology between 2001 and 2003. We expect that sources will stagger tbc plant outages required for SCR installation over the three-year period preceding the May 2004 SIP call compliance deadline. Those units which posc the least costly compliance challenges would probably be retrofitted with SCRs first. Tbus, a considerable number of SCRs should be ready to begin operations before thc 2004 deadline. Because they will not receive. early reduction credits, however, many sourccs that will have installed SCRs prior to 2004 simply will have no incentivc to incur the substantial costs of loading catalyst (which is quitc expensivc) and operating controls before May 2004. Thus, as a result of EPA's limitations on the availability of ERCs, substantial carly emissions reductions that are both feasible and achievable will not occur.

These lost emissions reductions translate into a potential lost air quality benefit. Any reductions in emissions that occur prior to 2004 could improve air quality in the areas where they occur and in downwind areas. As an cnvironmental policy matter, therefore, early reductions should not be discouraged. Calculations by Cinergy indicates that the entirc compliance supplement pool allocated to Indiana could potentially bc consumcd by thc installation of SCR's at one power plant. This is a result of EPA's miscalculation of how many SCR's would be nccessary in Indiana. Estimates by Cinergy and Statc Utility Forecasting Group indicatc that it is likely that more than twicc as many SCR's will be required in Indiana to meet 0.15 lb/mmBtu limit than EPA cstimated. Therefore the size of thc compliancc supplement pool for Indiana is grossly underestimated.

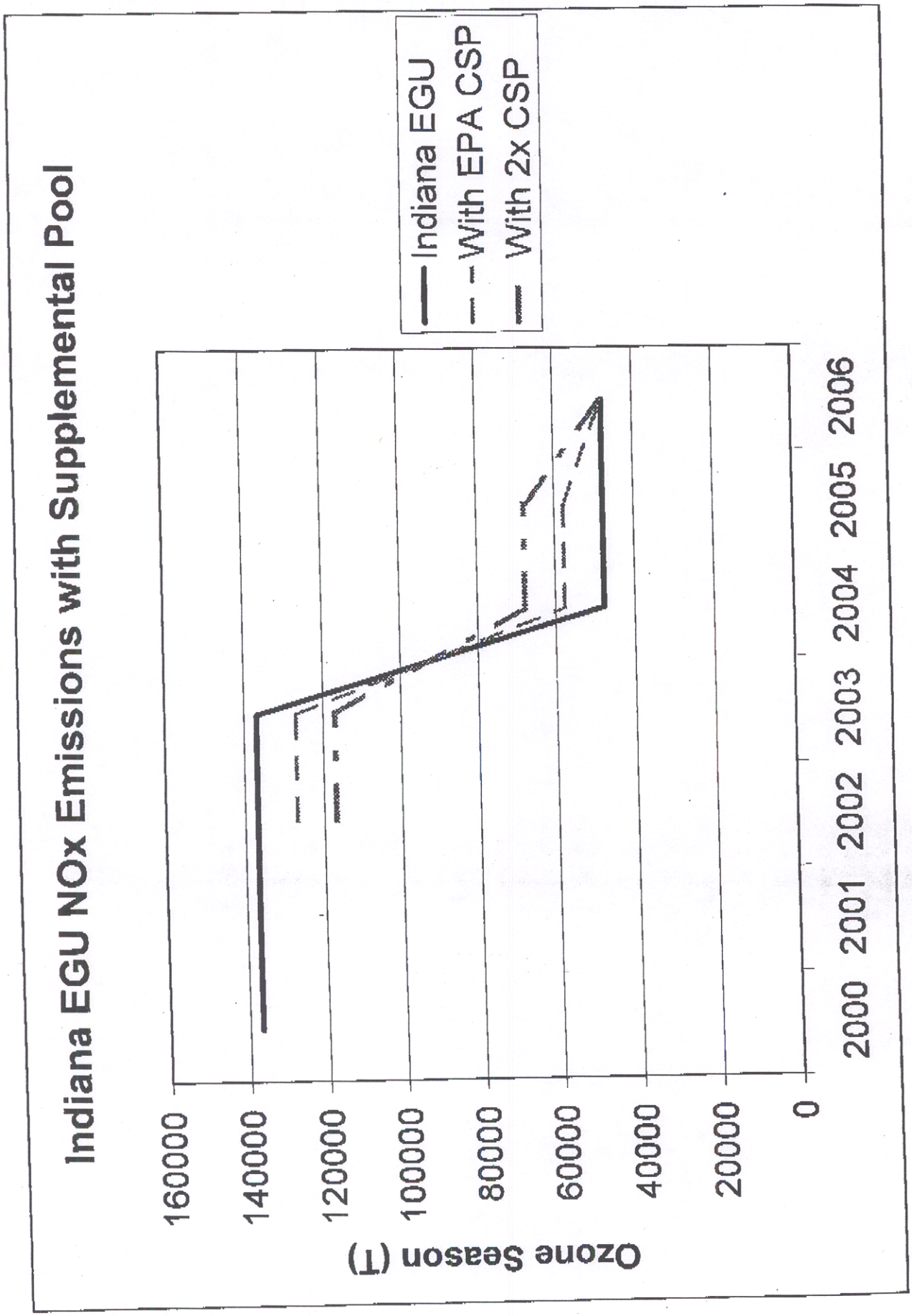
EPA estimates that Indiana EGU Title IV NO, emissions between 200 1 and 2003 are 136,773 tons per ozone control period and after application of thc 2003 NO, budget 47,73 1 tons per ozone control period. Therefore, between 2001 and 2003 a potential NO, reduction of up to 267,126 tons is available. The EPA compliance supplement pool limits early reductions credits to a total of 19,915 tons prior to 2004. Therefore, sources are only encourage to reduce thcir emissioa up to 19,915, not the full potential 267,126 tons, or only 7 percent (19,915/267,126) of the potential NO, reductions prior to 2004. Please see the attached graphical representation of thc potential early reduction program options.

Cinergy appreciates this opportunity to comment on this rulemaking. If you have any questions on these comments, please contact mc at 838-1404.

Sincerely,

Daniel R Weiss

Daniel R. Weiss


Indiana EGU NOx Emissions with Supplemental Pool
Ozone Season (T)
160000
140000
120000
100000
80000
60000
40000
20000
0
2000 2001 2002 2003 2004 2005 2006
Indiana EGU
With EPA CSP
With 2x CSP